(2)

CF0000110811

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

W.P. NO. 4066 OF 1994

Petitioner - M/s Swastic Steels, Raipur

-Versus-

Respondents - State of Madhya Pradesh and five others

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

DETAILS OF THE PETITION

1. PARTICULARS OF THE PETITIONER -

M/s Swastic Steels, Devpuri, Raipur through its Partner Shri Mahaveer Prasad Jain, Ganesh Ram Nagar, Malviya, Raipur (M.P)

2. DETAILS OF THE RESPONDENTS -

(1) State of Madhya Pradesh through Secretary, Industries Department, Vallabh Bhawan, Bhopal .

(2) State Level Committee, Tax Benefit Section through Director of Industries, Bhopal

(3) General Manager, District Industries Centre Raipur (M.P)

(4) Commissioner of Sales Tax, Madhya Pradesh, Indore (M.P)

(5) Sales Tax Officer, Raipur Circle IV, Raipur (M.P)

OATH COMMISSIONER JABALPUR

3. PARTICULARS OF THE ORDER

XI-HC-22

(117)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 4066/94 सन् ~~200~~

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	12-7-2005 Mr. Ashish Shrivastava, Advocate appears on behalf of Mr. H.S. Shrivastava, counsel for the petitioner. Mr. N.K. Agrawal, Deputy Advocate General for the State/ respondents. Heard both the counsel. The petitioner has filed this writ petition questioning the legality of order dated 29-9-1994 (Annexure P-1) cancelling the eligibility certificate and also for quashment of the instructions issued by the Commissioner of Sales Tax vide order dated 5-12-1989 (Annexure P-2) being without jurisdiction, whereby the Commissioner of Sales Tax, Madhya Pradesh, held that "The expression 'Processing Industry' in the condition specified against item 2 (vii) of the Schedule to S.R.D. notification No.A-3-11-86(74)ST-V dated 26-10-86 would not cover any such industrial unit where the processing undertaken by it does not lead to the manufacture of any goods within the meaning of the expression manufacture defined in Section 2 (j) of the Madhya Pradesh General Sales Tax Act, 1958". Learned counsel for both the parties agreed that this matter is squarely covered by the decision of the Apex Court in the matter of **Ashirwad Ispat Udyog and others vs. State Level Committee and others** reported in **(1999) 32 VKN 65**. In this matter similar question was considered by the Apex Court and the Apex Court held that "Purchase of steel scraps and cutting them into strips of various sizes for use by rolling mills and foundries with help of shearing machines and glass cutting – Such process falls within special definition of 'manufacture' – MPGST Act, 1958, Sections 2 (j), 12 Notification No.A-3-11-86(74)/ST-V, dated 16-10-86".	

(118)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Therefore, in view of the above Apex Court judgment, this petition deserves to be allowed. Accordingly, the petition is allowed and order dated 29-9-1994 (Annexure P-1) cancelling the eligibility certificate and order dated 5-12-1989 (Annexure P-2) passed by the Commissioner are quashed. Parties are entitled for certified copy of this order. **Sd/-** **L.C. Bhadoo** **Judge**	

Soma

14.7.05

20.7.05

(पीछे देखिये)